

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DOROTHY K. WATSON

Plaintiff,

v.

**KILOLO KIJAKAZI, Acting Commissioner
of Social Security**

Defendant.

CIVIL ACTION NO. 22-3851

ORDER

AND NOW, this 25th day of September 2023, upon full consideration and review of the Report and Recommendation (“R&R”) of Magistrate Judge Lynne A. Sitarski, to which no objections have been filed, it is hereby **ORDERED** that:

1. The R&R [Doc. No. 24] is **APPROVED and ADOPTED**.¹
2. Plaintiff’s Request for Review is **GRANTED**. The case is remanded to the Commissioner for full consideration of the Plaintiff’s impairments and the effects of such impairments on compliance with treatment.

It is so **ORDERED**.

BY THE COURT:

/s/ Cynthia M. Rufe

CYNTHIA M. RUFÉ, J.

¹ The Magistrate Judge issued a detailed, comprehensive R&R and concluded that remand is necessary because the ALJ failed to consider whether Plaintiff’s sporadic mental-health treatment was caused by Plaintiff’s severe mental impairments of anxiety disorder, major depressive disorder, and post-traumatic stress disorder. The Social Security Administration states that in evaluating a claim, “if the frequency or extent of the treatment sought by an individual is not comparable with the degree of the individual’s subjective complaints, or if the individual fails to follow prescribed treatment that might improve symptoms, we may find the alleged intensity and persistence of an individual’s symptoms are inconsistent with the overall evidence of record. *We will not find an individual’s symptoms inconsistent with the evidence in the record on this basis without considering possible reasons he or she may not comply with treatment or seek treatment consistent with the degree of his or her complaints.*” SSR 16-3p, 2107 WL 5180304, at *9 (Oct. 25, 2017) (emphasis added). Because the ALJ failed to consider how Plaintiff’s mental impairments may have affected her ability to seek or to comply with treatment, the opinion is not supported by substantial evidence. *See Killiebrew v Comm’r of Soc. Sec. Admin.*, No. 21-8975, 2023 WL 2674768, at *6 (D.N.J. Mar. 29, 2023).